

## Employment and Training Administration, Labor

## § 655.31

*Employment Certification*, the employer must comply with all applicable Federal, State and local employment-related laws and regulations, including health and safety laws. In compliance with such laws, including the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, 18 U.S.C. 1592(a), neither the employer nor the employer's agents or attorneys may hold or confiscate workers' passports, visas, or other immigration documents.

(aa) *Disclosure of foreign worker recruitment.* The employer, and its attorney or agent, as applicable, must comply with §655.9 by providing a copy of all agreements with any agent or recruiter whom it engages or plans to engage in the international recruitment of H-2B workers, and the identity and location of the persons or entities hired by or working for the agent or recruiter and any of the agents or employees of those persons and entities, to recruit foreign workers. Pursuant to §655.15(a), the agreements and information must be filed with the *Application for Temporary Employment Certification*.

[77 FR 10156, Feb. 21, 2012]

### §§ 655.21–655.29 [Reserved]

#### PROCESSING OF AN APPLICATION FOR TEMPORARY EMPLOYMENT CERTIFICATION

### § 655.30 Processing of an application and job order.

(a) *NPC review.* The CO will review the *Application for Temporary Employment Certification* and job order for compliance with all applicable program requirements.

(b) *Mailing and postmark requirements.* Any notice or request sent by the CO to an employer requiring a response will be mailed to the address provided in the *Application for Temporary Employment Certification* using methods to assure next day delivery, including electronic mail. The employer's response to such a notice or request must be mailed using methods to assure next day delivery, including electronic mail, and be sent by the due date or the next business day if the due date falls on a Saturday, Sunday or Federal holiday.

(c) *Information dissemination.* OFLC may forward information received in the course of processing an *Application for Temporary Employment Certification* and program integrity measures to WHD, or any other Federal agency, as appropriate, for investigation and/or enforcement purposes.

[77 FR 10160, Feb. 21, 2012]

### § 655.31 Notice of deficiency.

(a) *Notification timeline.* If the CO determines the *Application for Temporary Employment Certification* and/or job order is incomplete, contains errors or inaccuracies, or does not meet the requirements set forth in this subpart, the CO will notify the employer within 7 business days from the CO's receipt of the *Application for Temporary Employment Certification*. If applicable, the Notice of Deficiency will include job order deficiencies identified by the SWA under §655.16. The CO will send a copy of the Notice of Deficiency to the SWA serving the area of intended employment identified by the employer on its job order, and if applicable, to the employer's attorney or agent.

(b) *Notice content.* The Notice of Deficiency will:

(1) State the reason(s) why the *Application for Temporary Employment Certification* or job order fails to meet the criteria for acceptance and state the modification needed for the CO to issue a Notice of Acceptance;

(2) Offer the employer an opportunity to submit a modified *Application for Temporary Employment Certification* or job order within 10 business days from the date of the Notice of Deficiency. The Notice will state the modification needed for the CO to issue a Notice of Acceptance;

(3) Offer the employer an opportunity to request administrative review of the Notice of Deficiency before an ALJ under provisions set forth in §655.61. The notice will inform the employer that it must submit a written request for review to the Chief ALJ of DOL within 10 business days from the date the Notice of Deficiency is issued by facsimile or other means normally assuring next day delivery, and that the employer must simultaneously serve a copy on the CO. The notice will also state that the employer may submit